

## Hungary in the Media, 2010-2014: Critical Reflections on Coverage in the Press and Media; Final Report of the Working Group on Hungary

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Veröffentlichungsversion / Published Version

Abschlussbericht / final report

### Empfohlene Zitierung / Suggested Citation:

Dohnanyi, K. v., Gelencsér, A., & Hegedűs, D. (2015). *Hungary in the Media, 2010-2014: Critical Reflections on Coverage in the Press and Media; Final Report of the Working Group on Hungary*. (DGAP-Bericht, 29). Berlin: Forschungsinstitut der Deutschen Gesellschaft für Auswärtige Politik e.V.. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-56283-2>

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## Hungary in the Media, 2010–2014 **Critical Reflections on Coverage in the Press and Media**

*Final Report of the Working Group on Hungary*

*Klaus von Dohnanyi (Chair), Ágnes Gelencsér, Dániel Hegedűs, Gereon Schuch*

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The official version of this report was published in German by the DGAP. In case of deviations between the texts, the German version prevails: Dohnanyi, Klaus von, et al. "Ungarn in den Medien 2010–2014: Kritische Reflexionen über die Presseberichterstattung." DGAPbericht 29. June 11, 2015. <https://dgap.org/de/think-tank/publikationen/dgapbericht/ungarn-den-medien-2010-2014>

# Hungary in the Media, 2010–2014

## Critical Reflections on Coverage in the Press and Media

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### Introduction

Reports on the political developments in Hungary in the German-language media (and, in part, in the international press as well) paint a contradictory picture. It appears from these reports that the country under the government of right-wing conservative Prime Minister Viktor Orbán is increasingly distancing itself from Western democratic principles. At the same time, it is quite clear that these various news reports contain inconsistencies.

There is, for example, the frequent criticism that the Orbán government promotes an anti-Semitic climate in Hungary. At the same time, international media are noting increased interest in Hungary on the part of young Israelis who wish to live in Europe. Britain's *Economist*, for example, reports that "Israelis with Ashkenazi, or East European, ancestry are queuing at German, Hungarian and Polish consulates for what was once regarded as a shameful act of seeking European passports."<sup>1</sup>

Imre Kertész, Hungary's Nobel Laureate in literature, recently described an encounter with a *New York Times* reporter that took place in July 2013. The reporter apparently sought to direct the interview toward corroborating his own preexisting (negative) image of Hungary. The interview was never published, Kertész believes, because he did not confirm the journalist's expectations. Kertész said that his interlocutor

*thought I was going to speak out against Hungary, or Hungary today.... And I didn't. He had come with the intention of getting me to say that Hungary is a dictatorship today, which it isn't.... If you can write, speak openly, openly disagree, even leave the country, it is absurd to speak of dictatorship. And this is what I said. I am not pleased with everything happening in Hungary today, I do not think there was ever a time when I was pleased with everything happening here, but certainly Hungary is no dictatorship.... And the interview was never published. Which a friend of mine very accurately said is a kind of censorship: if someone gives an answer you don't expect, then you don't publish it.<sup>2</sup>*

It could be argued that this sort of "censorship" exists in a larger context in outside reports on Hungary. Certainly, there is a palpable climate of disapproval. Covering anti-Orbán protests last autumn, the *Economist* wrote, "The European Union has proved unwilling or unable to rein him [Orbán] in. Instead ... the pressure is mostly coming from America. President Barack Obama recently bracketed Hungary with Egypt and Azerbaijan as countries in which civil society felt intimidated."<sup>3</sup> As reported in the *Frankfurter Allgemeine Zeitung*, US Senator John McCain called Hungary "a nation that is on the verge of ceding its sovereignty to a neofascist dictator."<sup>4</sup> McCain's remarks were made in connection with the appointment of a new US ambassador to Hungary. Should we therefore be surprised that Orbán believes the US tried to organize regime change in Hungary?

Another example: In the summer of 2014 Orbán gave a speech in the Romanian town Băile Tușnad in which he criticized free market economies on social grounds. In connection with this argument, he pointed to the large state economic responsibility assumed by governments in countries such as Singapore, China, and Russia. Here much of the German and international press quoted him as referring to "illiberal democracies," whereas Orbán had in fact chosen the formulation "illiberal states." In doing so, the media made a connection to the political practices of these states that Orbán had not intended; his criticism of "liberal states" was clearly meant to apply only to the shortcomings of free-market economies.

These examples underline the importance of taking a closer look at Hungary today. The crisis in Ukraine – and the European Union's strained relations with Russia – illustrate once again the tremendous importance of European consensus for the EU's capacity to act. In this context, the degree of damaged to relations between Hungary and the EU Commission is striking, and bilateral relations with a handful of EU member states are damaged as well. No EU member state has faced as much criticism of its domestic and foreign policy as Hungary.

Germany and Hungary have traditionally enjoyed good relations. More than two decades ago, Hungary set a bold pace on the path that led to the fall of the Berlin Wall. How does this fit with the image that is currently painted of Hungary's government under Orbán? His administration, since its electoral victory in the spring of 2010, has faced international criticism for using its two-thirds parliamentary majority to pass sweeping legislative and constitutional changes. Criticism in German-language media has hinged largely upon this political development. However, the EU Commission, the European Council, the European Parliament, and the governments of individual EU member states should first carefully review criticism of another member state on the basis of the facts. It should, moreover, be noted that the Hungarian government delivered 51 percent of its 2014 EU Parliament votes to the conservative-centrist voting bloc – the European People's Parties (EPP) – constituting the largest such electoral win in the entire EU. This runs counter to the tendency in the UK, for example, and other EU states to deliver increasing numbers of votes to euroskeptic parties.

A number of questions inspired the DGAP to call together a working group of German and Hungarian experts. What are the primary criticisms of Hungary formulated by media within the EU and in the international press? Do these criticisms correspond with the facts? Where are the differences in views and attitudes between Hungary and other EU member states? Where are the misunderstandings, and how can these be reduced in order to facilitate greater understanding between Hungary and the EU? What role can Germany play in this process?

The DGAP's Working Group on Hungary consisted of Klaus von Dohnanyi, Ágnes Gelencsér, Dániel Hegedüs, and Gereon Schuch.<sup>5</sup> As its first step, the group gradually collected the primary criticisms from largely German-language media and organized these thematically. This was followed by a series of meetings to collect expert input; representatives of the Hungarian political research institutes Political Capital and Nézöpont were consulted, and some 15 legal scholars and political scientists, media experts, as well as specialists on minority rights from Germany and Hungary shared their input. Finally a number of studies and reports on the Hungarian political situation were examined.

The Working Group felt it was essential to examine the developments within the context of national cultural traditions. To what degree, it asked, could critical developments be explained by culturally or historically-specific national peculiarities of democratic practice that could be accepted through the lens of the EU principles of

national sovereignty and subsidiarity? Repeated criticism of the Hungarian government was therefore viewed in an international context and compared with the practices of other democratic states. The group sought to differentiate clearly between political decisions in Hungary that would have been made differently in Germany and those that must fundamentally be criticized on democratic grounds.

## Hungary's Historical Situation

Before the elections in 2010, Orbán announced his intention to undertake far-reaching reforms. (The attempts at comprehensive reform undertaken during his first government of 1998–2002 had largely failed.) Even if democratic conditions now prevailed, many structures had remained in post-communist ruts since 1989. According to Orbán's party, Fidesz, and its campaign list partner, KDNP (the Christian Democratic People's Party), numerous positions in economics, society, and politics were still held – years after the fall of the Berlin Wall – by members of the Communist Party or people who had come to power under socialism.<sup>6</sup> (Despite Fidesz's anti-communist approach, however, it must nonetheless be noted that numerous representatives of the socialist elites also found a new political home inside the party.)

According to most experts questioned by the Working Group, however, Hungary lacked cross-party consensus opportunities to undertake such necessary reforms in the period before 2010. In the 2010 elections, Orbán achieved not only a stable legislative majority but also the two-thirds majority necessary for implementing constitutional changes – a result that opened up extensive room for maneuver.

In order to judge Orbán's second electoral win and the policies subsequently enacted by his two-thirds majority, one must consider the astounding reform bottleneck that the previous socialist-liberal government (2002–10) had been unable to overcome. These circumstances made it especially difficult to deal with the economic crisis that began in 2008. Moreover, the Fidesz party from the first Orbán government (1998–2002) had experienced a strong leftist headwind in the media and at times, in its own view, a certain political pushback from the old guard.

In order to secure both their desired reforms and the necessary majorities for implementing them in the long term, Orbán's government sought opportunities to secure a wide popular consensus. It did so in large part through renewed recognition of centuries-old markers of nationalist Hungarian identity. Hungary's singular linguistic and cultural development, with neither Slavic, nor Romance,

nor Germanic roots (Hungarian is not an Indo-European language), as well as its proud history of centuries of rule as an empire, had led to the focus on a uniquely Hungarian identity; the government seized this as an opportunity to reunite the deeply politically divided country across party lines.

This is how the Hungarian government has come to stand out for its unusually historically-oriented self image in modern-day Europe. Hungarian cultural history can in a similar way be seen as a reason for the country's regular rejection of political demands (and political criticism) from other countries both inside and outside of Europe. Prime Minister Orbán, in his words, “arms” himself in “defense” of his country against “interference in Hungarian affairs” by the European Commission and other countries. He feels he has been misunderstood and regularly identifies as irresponsible his critics' ignorance of his country's exceptional circumstances.

In order to better understand what appears to be an overreaction, it is important to give greater attention to the historical and political background of a certain Hungarian truism: that throughout history Hungary repeatedly had to reclaim its freedom from foreign powers. The Ottoman yoke, Austrian rule, and the successive German and Soviet occupations have not been forgotten. Hungary's history was by necessity one of self-determination. Perhaps that is the reason why in 1956, three years after the uprising in East Germany, the Hungarians led the only military-backed freedom revolt against the Soviet powers. None of the later uprisings against the Soviets in Central Europe were marked by such consistency. In the context of this historical self image, Orbán as a student leader in the summer of 1989 bravely called for the removal of all Soviet troops from Hungary.

Today, at a time when culturally and historically shaped identities are growing in significance (Northern Ireland, Scotland, Catalonia, northern Italy, Corsica, and others come to mind), we must take into account the growth of collective national memory in Hungary. Yet the country's nationalist emphasis on the past is often misunderstood. Many of the Orbán government's actions and statements are more easily grasped, however, when this context is considered.

## Individual Areas of International Criticism

This report accompanies a series of main topics with excerpts from recent media reports, followed by exami-

nation of common media criticism. The group examined media reports relating to the rule of law in Hungary, the separation of powers, judiciary independence, electoral laws, the state of the Hungarian media, matters of social justice and corruption, anti-Semitism, homelessness, and the conditions experienced by the Roma minority. German-language newspapers and media were given precedence for practical reasons, although examples are also easily found across international outlets.

## Rule of Law

An example from media coverage:

*Hungary's new constitution undermines the rule of law. It removes the Constitutional Court's checks on taxation and budgetary legislation. In this way, it creates the opportunity for constitutionally inviable law to take effect without allowing for any form of recourse, thereby shaking the court's authority.*

*The rule of law is being further eroded by the new constitution's lengthy, inconsistent, and ideologically one-sided preamble, which calls itself a “National Avowal.” This credo is not a meaningless verse of the constitution but rather has been explicitly identified as a mandatory measure of constitutional interpretation....*

*This threatens substantial damage to the very principle of democracy. The constitution limits every future government's room to maneuver. In the future many laws, even central taxation and social security reforms, will only be able to be changed by a two-thirds majority. But for a government to hold a two-thirds parliamentary majority of the sort that Prime Minister Orbán's Fidesz party currently enjoys is the exception rather than the rule.*

*The drafting process deeply harmed the constitution's legitimacy. The opposition refused to cooperate. There were no nationwide meetings to advise on proposals. Even a referendum was avoided. These failures are visible even in the content of the constitution. This document does not seek to make possible the coexistence of various political interests and preferences. Instead it is an attempt to unilaterally restructure Hungary to suit the preferences of Prime Minister Viktor Orbán and the political powers that support him. No one, apart from Orbán and his people, supported this reorganization. Despite the fact that a new constitution played no role in Orbán's reelection campaign, this is how he chose to complete the “revolution at the polls,” as he called it at in his electoral victory speech.<sup>7</sup>*



## Critical reflection

### Restriction of the Constitutional Court's judicial authority

The article claims that the new Hungarian constitution (the Fundamental Law) undermines the rule of law because the Constitutional Court is no longer allowed oversight over taxation and budgetary legislation. In reality, the constitution contains the following regulation (Article 37, Paragraph 4):

*As long as state debt exceeds half of the gross domestic product, the Constitutional Court may, within its powers set out in Article 24 (2) b) to e), review the Acts on the central budget, the implementation of the central budget, central taxes, duties and contributions, customs duties, and the central conditions for local taxes for conformity with the Fundamental Law exclusively in connection with the rights to life and human dignity, to the protection of personal data, to freedom of thought, conscience and religion, or the rights related to Hungarian citizenship, and it may annul these Acts only for the violation of these rights.<sup>8</sup>*

This regulation does in fact “create the opportunity for constitutionally inviable law to take effect ... thereby shaking the court’s authority,” as the cited article states. On the other hand, this regulation could strengthen the primacy of the parliament in budgetary policy, which in general democratic understanding is indeed a fundamental parliamentary right.

The anchoring of a debt brake in the new constitution is fundamentally welcomed, even by the experts we questioned. While the first Orbán government (1998–2002) was able to lower the debt from 60.4 percent to 52 percent of GDP, the socialist-liberal government (2002–10) let state debt balloon again to 82 percent (in 2008, even before the economic crisis). Only emergency credit amounting to nearly €12.5 billion from the International Monetary Fund and the EU was able to save Hungary from default.

Naturally, it cannot be denied that the constitution's Article 37, Paragraph 4 means a partial prohibition of norm control on taxation and finance laws. This has been attacked by a majority of Hungarian legal experts as contrary to the rule of law. This opinion was influenced heavily by the unique background of this specific regulation: the Constitutional Court would have found one new special taxation regulation – a 98-percent tax applied only to the severance packages of state employees – unconstitutional under the rules of the old constitution. It was for this reason that the parliamentary majority restricted the

Constitutional Court's jurisdiction to this degree with the new regulation under Article 37, Paragraph 4.

Some experts we consulted hinted that the administration's attempt to implement the special 98-percent tax correctly recognized a political problem, yet failed to solve it in its indifferent (and therefore in many cases unjust) application.

Even today, the Hungarian Constitutional Court can apply its regulatory jurisdiction to budgetary and finance matters while pointing out damage to fundamental civil rights specified in Article 37, Paragraph 4. There are already examples of precisely such cases. The statement that the new constitution fundamentally undermines the rule of law therefore appears incorrect.

### The preamble to the constitution

Critics see another violation of the rule of law in the ideological one-sidedness of the preamble, which has been declared the constitutional measure of interpretation. The preamble is an avowal of values. As such it elevates specific values – those deemed especially important by the parliamentary constitutional majority – while nevertheless explicitly recognizing all other “minority values and rights.” This is a point of contention among experts; according to some constitutional experts, the preamble's content does not contradict the rule of law.

Certainly, it would have been politically more savvy to develop wider consensus on such a far-reaching preamble – **for the stress on certain, specific values cannot possibly reflect a pluralistic society completely and thereby offers an unnecessary opportunity for further division within Hungarian society.** There does not seem to be a persuasive argument, however, that the rule of law is fundamentally under threat.

### Cardinal Acts

The article cited above also considers the so-called Cardinal Acts to be a threat to democracy. These cardinal acts (that is, laws that can only be changed with a two-thirds parliamentary majority but nevertheless lack constitutional status) were not introduced by the Orbán government in order to reduce the room for maneuver of future governments. Rather they have existed in large part since the democratic upheaval of 1989. Cardinal acts were the result of distrust between the then-democratic opposition and the ruling state party and were intended to prevent the communist powers-that-be from gaining strength, as well as to ensure the stability of the democratization process. At that time, they were considered an essential element fortifying the principle of democracy. Since



then, people have always complained that that they could prevent current Hungarian policy changes; however, a majority has yet to form that could abolish them – a step that some experts would find desirable, as it could open up further opportunities for greater democratization. The question remains if this practice – one in which even taxation policy is drawn into these cardinal acts – is simply unfairly restrictive to future governments.

Other experts argue, however, that cardinal acts play a stabilizing role and continue to consider them essential, especially considering the economic crisis and upheaval situation currently facing Hungary. According to this view, matters “of continuing public interest” – those which are dependent upon a unified constitutional framework – should be regulated by such cardinal acts in order to outlast administration changes, providing stability from election to election. For example, cardinal acts include the regulation of party financing; protection of national minorities; the creation of regulatory authorities; the regulation of jurisdiction; the division of powers between central and local governments; and the taxation status of religious entities.<sup>10</sup>

It remains, therefore, a question of perspective whether the cardinal acts damage basic democratic principles or whether they serve to strengthen the country’s democratic stability. In the end, cardinal acts restrict the room for maneuver of every government equally – including a Fidesz government that at the moment only rules by simple majority.

### Lack of legitimacy: unilateral restructuring of the country?

Finally, the article claims that the new constitution lacks legitimacy due to its failure to include the opposition in the drafting process. The Orbán administration is accused of reforming Hungary unilaterally to suit the interests and preferences of the prime minister. The constitution, it says, was agreed to by “no one apart from Orbán and his people.”

If one expects the legitimacy of constitution drafting to be measured in referendum votes, then perhaps one could conclude that legitimacy was in this case tarnished. The Socialists boycotted the parliamentary debate to which the draft constitution was subjected, arguing that only a very short amount of time had been granted for review. (This is true – it was just one month.) Furthermore, the opposition wanted to prevent its own pseudo-participation and made repeatedly clear this was another reason it refused to seek consensus. In return, Fidesz accused the Socialists of avoiding the debate not because of its content

but, rather, in order to reap immediate political gains. The extreme right-wing Jobbik party rejected the proposals outright.<sup>11</sup>

In this way, all political powers – not just “Orbán and his people” – were responsible for the new constitution’s purported lack of legitimacy. The only proposed changes were submitted by an independent member of parliament, Katalin Szili (formerly MSZP<sup>12</sup>), as well as two alternative proposals submitted by constitutional lawyers, some of whose recommendations – on unimportant matters, they would argue – were in fact included.

If there was an absence of debate, it was at least partly the fault of the opposition. No referendum was held (as was the case, it should be noted, in Germany in both 1949 and 1990); instead the government initiated a “national consultation” in the form of a survey. This was criticized – fairly – by the opposition, as the phrasing of the questions unfairly influenced the answers. Of eight million surveys distributed by the government, only 917,000 were returned.

The legitimacy of the process of drafting the constitution was above all justified by the Orbán government’s two-thirds majority. In this case, because they gave him a parliamentary constitutional majority, the voters themselves belong to the category of “Orbán and his people.” The government rejected several times the opposition’s charge that “a new constitution played no role in Orbán’s 2010 electoral strategy.”<sup>13</sup> The previous constitution from the socialist period had always acknowledged that it was provisional, even in its own text, and formally carried the title “Law XX: 1949.” Constitutional reform had been on the docket of every Hungarian government since the democratic reforms of 1990. Every administration had had its commissioner for constitutional reform, but previously either the necessary two-thirds majority was lacking or the government (like the socialist-liberal coalition of 1994–98) had been unable, despite its constitutional majority, to reach consensus on a new constitution within its coalition.

The large majority of the constitutional experts we consulted generally agreed that the old constitution as amended in 1990 did its job despite its patchwork of changes but that the new 2011 constitution is far more structurally coherent. Finally, it is uncontested that a clear and formal break with the communist past could only be achieved through such a symbolic final stroke: drafting a new constitution.

The claim that a “unilateral restructuring” of the country occurred is correct to the degree that the new constitution was voted in exclusively by members of one

political party on one side of the political spectrum. It must be recalled, however, that this party held the necessary two-thirds parliamentary majority, thereby legitimizing the constitutional changes.

Through its formulation that the new constitution was an attempt “to unilaterally restructure Hungary to suit the preferences of Prime Minister Viktor Orbán and the political powers that support him,” the article reflects the common criticism in the German media that Hungary is ruled by a “controlled democracy.” Although expressing some reservations, every one of the experts we consulted refuted this criticism. In the Hungarian political system – similar to Germany’s chancellor-led democracy – the executive branch and, above all, the head of the government are powerful. Such division of power began to develop in the mid-1990s and has continued to consolidate ever since.

The institutional structure of the 2011 constitution further strengthens the administration and above all its head. Nevertheless, experts on all sides agreed that this is still within the boundaries of the rule of law. As head of state, Orbán is assuredly stronger than the constitution explicitly states; he neither faces competitors within his own ranks nor does the opposition present a plausible challenger. Further, he is an extremely self-confident and power-oriented personality and clearly dominates political developments in Hungary.

The charge that the Orbán administration undermined the rule of law and damaged democracy must nevertheless be examined more critically. It must also be differentiated from the reality of the two-thirds parliamentary majority. Even if certain legislative changes today leave loopholes for potentially unconstitutional lawmaking in the future – for example, because the Constitutional Court can only review current budgetary measures under the criteria given Article 37, Paragraph 4, or because the system of cardinal acts could create gridlock – this alone represents neither a subversion of democracy nor a restructuring of the country at the prime minister’s whim. If one nevertheless still holds that the state has been “unilaterally restructured,” one must add that this was achieved by means of a legitimate parliamentary majority – a majority that voters confirmed a second time and third time in 2014 in both national and EU elections, giving them the highest majority of any EU country. That said, changes to the constitution must also be measured by the democratic *quality* of their results.

For this reason it is recommended that Fidesz use its powerful majority in such a way that the parliamentary minority can be included in important decision-making

processes. For this to work, one must assume tolerance and willingness on the part of both sides.

## Separation of Powers

An example from media coverage:

*On the other hand, Orbán is using the two-thirds majority – as many other politicians across the former communist states of Eastern Europe would in his position – to shamelessly cement the power of his own party. Orbán, however, went one step further. The fourth series of constitutional amendments passed Monday were Fidesz’s direct response to earlier Constitutional Court rulings that had, to Orbán’s dismay, declared an entire set of temporary regulations unconstitutional. Now some of these have been enshrined in the heart of the constitution, albeit with modifications intended to circumvent the court’s decision. Such an annulment of the Constitutional Court is a violation of the principles of the rule of law and a blow to the division of powers. The Constitutional Court has previously rejected various legislative projects. It appears that Orbán cannot bear political defeat. This is the only way to explain the recent restrictions to the authority of the Constitutional Court, which administration representatives have called a widening of its scope. The highest judges are now allowed to examine constitutional provisions based solely on the validity of their formal conclusion, thereby relieving them of control over the content.<sup>14</sup>*

## Critical reflection

That a party would use its two-thirds majority to strengthen its own position is not unusual in a democratic state. The question, then, is how far does it go? Where does the Fidesz majority recognize its limits? Would the constitutional order as it stands today still be capable of restricting the Orbán government if necessary?

The central criticism targets the use of so-called constitutional slight of hand: the parliamentary majority canceled out the Constitutional Court’s ruling that certain regulations were unconstitutional by changing the fundamental law itself to include these regulations, thereby removing its constitutional control in this case.

That a parliamentary majority can limit the control functions of a constitutional court is common international practice. In exactly this way, for example, Germany added a debt brake to the constitution that also binds the Federal Constitutional Court, albeit without the limitations now enshrined in Article 37, Paragraph 4 of the Hungarian constitution. That the Constitutional Court cannot decide on content matters, but rather performs a perfunctory formal control of constitutional

provisions and changes, had previously also been the case in Hungary and has now been recodified into the constitution. The media, or more specifically the cited article, incorrectly identified this as a new removal of competencies. Remember that Germany's federal interior minister, constitutional experts, and political parties are presently discussing whether the country should not add the five percent voter threshold directly to the German constitution following the Federal Constitutional Court's ruling that any threshold for EU elections is prohibited, largely in order to avoid a similar judicial ban affecting German Bundestag elections.

The Hungarian Constitutional Court, it must be noted, was not "rendered powerless," but rather certain competencies were altered; in specific cases it received less power, in other cases it was granted more. This led, for example, to the abolition of general public interest lawsuits (*actio popularis*) and the expansion of constitutional court jurisdiction over court decisions, following the German model – a change that had been pushed by legal experts for over twenty years and even welcomed by the Venice Commission.<sup>15</sup> Under the previous legal structure, the mechanism of public interest lawsuits granted every citizen the right to bring any law before the Constitutional Court in order to examine its constitutionality – an effective means of discarding the ballast of unconstitutional laws as quickly as possible during the post-communist transition. More recently, however, public interest lawsuits had become an enormous burden on the Constitutional Court. For this reason, legal experts we consulted supported the abolition of public interest lawsuits, underlining that it is more than enough for an actual victim to have the right to pursue action against an act of administrative abuse of power.

How the new fundamental law has shaped parliamentary control since its adoption is difficult to judge, given that Fidesz once again achieved a two-thirds majority: there is no oppositional party strong enough to practice any form of meaningful parliamentary control.

That judicial checks still exist today is undisputed. The principle of division of powers could be compromised, however, to the degree that Fidesz with its two-thirds majority selected Constitutional Court judges who, while qualified, were nevertheless close to the ruling party. Even the head of the justice department is a lawyer who is also close to the administration, which further suggests limited independence. In other words, the practice of checks and balances could be affected by the personnel policies of the government. This suggests that a correction of governmental practice is in fact necessary

here. The allocation of such central positions in a state governed by the rule of law must always be transparent and accessible to the opposition.

## Judiciary Independence

An example from media coverage:

*Given concerns about the state of Hungarian democracy, the EU initiated proceedings for three separate contract violations against Viktor Orbán's administration....*

*The first proceeding is against a law lowering the retirement age of judges from 70 to 62. Budapest is formally being charged with age discrimination. Even the regular retirement age in Hungary is higher. In reality, however, the Commission is implying that Orbán hereby seeks to dismiss disagreeable judges and replace them with his followers. The mandatory early retirement law would affect 274 judges this year alone....*

*In addition to the initiation of these three proceedings, the Commission is demanding from the Orbán government further disclosures about its judicial reform efforts. The Commission fears that the overall independence of the judiciary no longer meets European standards.<sup>16</sup>*

## Critical reflection

The controversial legal provision intended to decrease the retirement age for judges (then 70) to Hungary's then-general retirement age of 62. It was known at the time, however, that the general retirement age would soon be raised to 65. This so-called Judges' Law called for the removal of all judges over age 62, even if this resulted in a reduction of their expected retirement benefits. The same was to hold for notaries and state attorneys. The change affected hundreds of positions. Given the means by which pensions are calculated, many affected individuals in many cases faced enormous pension losses.

The European Commission threatened to pursue treaty violation proceedings. Brussels claimed that the law was a form of age discrimination. After the law had been removed, it was replaced with new regulations reducing the retirement age from 70 to 65 in phases for everyone born after 1945 while at the same time providing for necessary adjustments to the social security system. To compare with other European countries. Even the German constitution (Article 97, Paragraph 2) allows judges to be placed under early retirement. A similar Judges' Law was used to take advantage of this possibility. In Italy, Prime Minister Matteo Renzi recently reduced the retirement age of judges from 75 to 70; a further reduction to age 66 is planned to occur by 2016. This measure was greeted

positively by the EU as a needed social security reform that simultaneously opened up employment positions for younger judges. Some Hungarian journalists used this to illustrate their complaint that the EU measures Italy and Hungary on two different scales.<sup>17</sup>

Nevertheless, the legal reduction of the retirement age of judges from 70 to 62 was clearly a politically motivated measure by the Fidesz administration. The early retirement of judges was intended to make possible a transformation of the elite even across the judiciary. The administration most likely bore distrust toward the older generation of legal experts, because some judges still serve who were on the bench before 1989. Even the Hungarian Constitutional Court had been stocked with judges who had served before the revolution; in 2012, however, none of these were still in office.

In comparison, Germany has only very few judges still in service from the former German Democratic Republic.<sup>18</sup> Not a single one of them ever sat on the reunified Germany's Constitutional Court. It is important to note here that the situation in the former East Germany was unique; it was possible to replace the old elite with West Germans. Such a situation did not exist in other post-communist states, which ultimately led to the problems criticized by the Orbán administration. Unfortunately, in its attempt to force early retirement, the government trampled the principle of judicial independence.

Similar to the law on early judicial retirement, the law regarding case relocation from one court to another was criticized as antithetical to the basic principles of the rule of law and was reversed in response to EU pressure, despite the fact that the Fidesz government viewed each of these attempts to reform both the state and the judiciary as consistent with EU law. For this reason, the administration at first refused to reverse these laws. The possibility for case relocation was officially intended to more evenly distribute cases across all courts, as records show that the Budapest courts were especially overburdened.<sup>19</sup> Every expert we consulted agreed that the courts are indeed overwhelmed. Given these conditions, the principle of the rule of law was in fact being threatened, but instead by the fact that many cases passed their statute of limitations before they could be adjudicated. In many cases, even clearly guilty verdicts could not be passed down. Hungary was also criticized by the EU for the burden caused by the length of its legal process. As a result, the general public viewed the justice system quite negatively before the new legal measures were put in place.

Nevertheless, the EU's criticism here is fair: If it is possible to move cases between courts, it would also be

possible to seek out a court friendlier to the administration in certain instances. The critics also rightly point out that moving court cases to other cities could result in additional burdens on the legal parties which in the end could limit their right to a fair and independent trial.

While it would be wrong to accuse Orbán's administration of threatening the rule of law in Hungary today, it is nonetheless true that certain government attempts – intended to free the state from what it viewed as structures and persons inherited from the immediate post-communist era – in fact could have contradicted the rule of law in their details. These were rightly criticized and forced to be corrected. To conclude from this, however, that antidemocratic tendencies are being harbored in threats to the division of powers simply does not hold up under expert scrutiny.

## Electoral Laws

An example from media coverage:

*According to some opinion pollsters, the fact that Orbán can again count on a two-thirds constitutional majority is in part due to the deeply altered electoral laws that many critics see as unfairly benefitting his party in many ways....*

*Above all, Fidesz is accused of arbitrarily dividing voting districts to the exclusive benefit of Fidesz, because traditional leftist strongholds were broken up and conservative districts were either added to or greatly enlarged. This so-called gerrymandering is a popular practice among ruling parties, but the magnitude here appears excessive. Political Capital, a Hungarian think tank critical of the government, reckoned that the leftist opposition coalition needs 300,000 more votes than Fidesz in order to achieve a parliamentary majority. This is almost four percent of registered voters. The new lines, moreover, were passed as a Cardinal Act and therefore can only be altered with a two-thirds majority – which was the same as the old electoral laws.<sup>20</sup>*

## Critical reflection

The charge this article cites – that Fidesz adjusted the new electoral laws to fit the party's needs – was also regularly noted in postelection analyses that characterized the 2014 parliamentary elections as “free, but not fair.”

This was the same conclusion reached by both Political Capital and the Organization for Security and Cooperation in Europe (OSCE). Elections under the new laws are “free” because the same rules apply to every party. However, the new laws include certain elements benefiting the current ruling party, and for this reason the elections are not “fair.”



Problematic elements of the new electoral laws include the new voting district maps, electoral advertising regulations, and so-called winner compensation.

### The new voting districts map: gerrymandering

New electoral laws were necessary for various reasons. First, the number of parliamentary seats had been reduced from 386 to 199, which was a sensible and universally approved measure.<sup>21</sup> Second, the existing voting district divisions were unconstitutional and did not meet the recommendations of the Venice Commission, because the differences in the number of residents of various districts were simply too large (in some cases up to threefold).

The Constitutional Court addressed this unconstitutionality in a 2005 ruling, ordering parliament to use its two-thirds majority to address the differences between voting districts. This did not occur immediately, some experts believe, because constitutional changes to electoral law in the run-up to the 2006 parliamentary elections were not in the interest of the socialist-liberal government of the time. Nor was it achieved during their second term in 2007, following a second call to action from the Constitutional Court. It unclear whether the opposition of 2005 or 2007 (Fidesz at the time) would have constructively supported such changes, which necessitated a two-thirds majority.

A new voting districts map, therefore, has been obligatory since 2005. It has also been recognized by all sides that the new electoral map divides the population far more equally than the old district boundaries, even if certain gerrymandering effects are visible.

Gerrymandering is common in many democracies. The US and some European countries are prime examples. The practice alone does not signal a major democratic deficit. It is, however, problematic that the Fidesz-KDNP government neither allowed the cooperation of the opposition when drawing the voting district boundaries, nor offered them any opportunity to influence the process. This remains troublesome even when one considers the fact that the old voting districts map was also drawn up (by the last communist government) without any consensus (and at the time greatly, and exclusively, benefited the left).

Even if there is a tendency, as in many democratic states, to draw electoral boundaries to create simple majorities, critics of the new laws agree that Orbán's 2014 victory cannot be attributed to the new electoral district lines alone. Orbán would have won the election even according to the old electoral map. He would not, however,

have reached the two-thirds majority a second time, and thereby would have lost the necessary parliamentary constitutional majority.

Electoral laws in democracies are rarely perfect: One need only think of Britain's "first-past-the-post" system or the US electoral college that in 2000 granted George W. Bush electoral victory despite the fact that he lost the popular vote. Characterizing the Hungarian electoral system as undemocratic simply does not stand up in international comparison.

### Campaign advertisements: television and posters

In Hungary's public media, the time allotted to electoral advertising is distributed fairly among parties. Critics object that while campaign advertising is limited in public broadcasting, there are no such limitations on government "information campaigns." Private broadcasters must grant all parties equal amounts of electoral advertising time but are not allowed to charge for broadcasting. Given this regulation, private broadcasters are not financially interested in granting time for advertising, despite the fact that a majority of people could be reached through this medium. For this reason, campaigning is heaviest on the streets and in newspapers – two areas where Fidesz has a market share advantage. (Until February 2015, most of the billboard and advertising space belonged to businessman Lajos Simicska, a close friend and supporter of Orbán.)

The regulation on electoral signage applies to parties but not to government information or NGOs. On the one hand, this leads to a situation in which parties cannot advertise in certain spaces, whereas the government can use the space for information – even if this information is identical to its electoral advertising. On the other hand, this regulation grants distinct advantage to better-funded parties; they can transfer part of their campaigning to their closest NGO partners, thereby indirectly spending more than the expenditure limit (995 million Forint – about 3.3 million euros) on campaign financing; there is no spending cap on electoral advertising for civil society organizations. Such "cooperation" is purported to be the case with the Forum for Civil Solidarity (in Hungarian, CÖF), which sponsored massive rallies and events on behalf of Fidesz.

The Fidesz administration has turned these accusations around on civil society organizations that support the opposition, arguing that they actively campaign against the administration with the financial support of the Norway Grants.<sup>22</sup> In his Băile Tușnad speech of sum-

mer 2014, Orbán protested that “foreign interest group” payments such as the Norway Grants served to influence politics in Hungary instead of improving general social welfare as intended, making it necessary for the state to intervene. It is true that early warnings from independent auditors such as Ernst & Young had noted some irregularities in their earliest reports on the Ökotárs and Demnet foundations (two of the organizations managing the Hungarian Norway grants). There was some concern that the funding applications were vetted not by independent consultants but by employees close to the Ökotárs Foundation, and that specific groups were regularly and generously supported while others always went away empty-handed. However, the government’s heavy-handed reaction did not fit the circumstances: full searches with police supervision, followed by seizure of documents from both the Ökotárs and Demnet foundations. Both raids can be rightly criticized as an attempt to silence or intimidate these organizations, or even as a crude show of power, since both foundations were entirely cooperative in early government audits. Given the government’s behavior toward the Ökotárs and Demnet foundations, the concern voiced by both the Hungarian opposition and international observers is legitimate.

### Compensation of winners

Is the new electoral measures granting so-called winner compensation worth criticizing? Internationally, loser compensation is more typical in mixed electoral systems; that means that ineffective votes cast for second- or third-place candidates are collected on a compensation list, which can lead to an additional seat. Similarly, according to the new Hungarian electoral law, the extra votes – that is, those that made up the difference between first and second place in any given district and were therefore unnecessary for the win – will also be collected on a compensation list and can lead to additional seats. However the Hungarian method disproportionately benefits the strongest party.

Even such a regulation can make sense when applied to the creation of a governing majority. Italy, for example, uses a similar method in elections where no party receives a majority, awarding the plurality-winning coalition 55 percent of the available seats – the threshold for an absolute majority. The potential results of such a bonus, however, are far less drastic in Italy than there are in Hungary.

When the new Hungarian electoral laws were finalized, the goal of winner compensation was primarily the same as in the Italian version: stabilization of the ability

to govern in a parliamentary system. That Fidesz in 2014 would then achieve a two-thirds parliamentary constitutional majority under the new rules (by a slim margin of just one seat) given its popularity could not have been predicted. From this perspective, the Hungarian regulation is possibly a stabilizing factor – albeit in the eyes of some experts an excessive one – that cannot be criticized fundamentally as undemocratic.

To sum up, all experts we consulted agreed that the new electoral district map and the electoral advertising regulations may contain elements that benefit the current government, but that these were not the decisive factors in the 2014 elections, given the Fidesz party’s very high popularity. The claim that the new laws made Orbán’s electoral success possible can be considered correct only to the degree that they led not just to a *majority* government but perhaps also contributed to the narrow reconstitution of a two-thirds *parliamentary majority*.

Some of our experts felt that a more plausible and more powerful opposition could have won the 2014 elections despite their media disadvantage, much as Fidesz had won in 1998 despite leftist-liberal media blowback. This theory could be supported by 2015’s by-election of an independent candidate. Criticism with regard to the personal and structural means available to the government to practice illicit electoral advertising is justified.

### The State of Hungarian Media

An example from a German news program:

*The year [2011] is beginning poorly for Europe. It is not just about the euro; it is about freedom. We now have a president of the Council of the EU [Orbán] who has brought his country’s media under his control. Since the new year started, freedom and diversity of the press have become baseless. This affects not only ten million Hungarians; it affects all Europeans. And it is a disgrace for the 26 remaining heads of state and government. It is bad enough that Berlusconi and Sarkozy find it completely normal that party loyalists fill the ranks of [Italian and French] media. But the fact that the new president of the Council of the EU with little ado undoes one of Europe’s greatest accomplishments has a different quality entirely. If the German chancellor criticizes the rulers in Beijing or Moscow for harassing journalists or silencing the Internet, they will now be able to point a finger back at Budapest. This is how Europe loses; this is how we lose our credibility. Naturally we must criticize [Alexander] Lukashenko and Belarus or attack Teheran’s mullahs over the arrest of German journalists. But our most important infraction is in Hungary. In the center of Europe, a basic*

*right is under attack. Orbán's media law is no trivial offense. Democracy and market economics no longer go hand in hand. Freedom for the market but not [from] uncomfortable thoughts. Growth through capitalism and consumption, but without criticism. This is a dangerous virus spreading throughout the world. If Europe cannot maintain immunity against this virus, we are turning our backs on ourselves and our best values. As long as Orbán's media law is enacted, Budapest cannot be allowed to bask in the glow of leading Europe [as Council president]. Diplomatic cordialities like those seen at [Orbán's] first visit as EU leader are cowardly. It would be a disgrace for Angela Merkel and her colleagues to smile in the summit's traditional family photo while standing next to a censor. Freedom in Europe – not just the euro – is now desperately in need of rescue.<sup>23</sup>*

## Critical reflection

### Freedom and diversity of the press

The commentary cited above was provoked by the passage of the new Hungarian media law in autumn 2010. Is the government practicing control – or even censorship?

All of the experts we consulted agreed unanimously that both freedom and diversity of the press are present in Hungary and that neither control nor censorship are practiced. The experts further verified that Hungary is home to a pluralistic, if at times highly polarized media landscape. A large part of Hungarian media is politically biased, while another part is independent. It was stressed that in Hungary the political preferences of a media outlet's owner do not always compromise that outlet's content. Further, all major German-language media companies are also active in the Hungarian media market: the Funke group, Axel Springer, Ringier, and Bertelsmann.

### Short overview of the media landscape

The political daily newspapers are divided proportionally: two large papers are left-leaning (Népszabadság, which favors the MSZP and remains the largest national daily newspaper, as well as Népszava), and two are right-leaning (Magyar Nemzet and Magyar Hírlap). Among the private television broadcasters, two are right-leaning (hírtv and EchoTv) and one is left-leaning (atv). Private broadcasters and websites, many of which are openly critical of the government, are counted as politically independent media.

### Media law and the Media Council

Hungary is dealing with questions similar to those facing other post-socialist countries. How can a pluralistic media

landscape develop out of the former monopoly held by communist press and media? The old media law, passed in the wake of political revolution, had what some of our experts called a “facade of consensus”; the Media Council was made up of party representatives as well as representatives from apparently independent NGOs. Many of the latter were often in fact socialists and leftist liberals. Naturally most of the experienced media professionals of the time – and as a result, the most significant personalities in broadcasting – had also been active under the old regime.

The Fidesz administration sought to use its 2010 electoral victory to break with the past in this field and create new and more balanced conditions. With the new media law, the parliament created a new national media and communications agency responsible for the distribution of licenses and the registration of media entities. Its most significant body is the Media Council, which monitors the media law's normative regulations and which can apply sanctions as necessary. It is independent in accordance with statutory regulations. The five new members of the Media Council are selected by parliament. In 2011, the two-thirds majority formed by Fidesz-KDNP voted in only individuals who had a close connection to Fidesz, individuals whose independence had to be proven. Their term in office is nine years, which is unusually long by European standards. This supports the claim that Fidesz sought to secure its people in this position through as many legislative periods as possible.

On the other hand, the problems with the media sector seem to illustrate a problem with political party personnel (using the two-thirds majority) rather than an institutional problem. It would surely have been smarter and more democratic to fill one or two seats with opposition candidates, whereby the majority relationship in parliament would also have been more accurately reflected.<sup>24</sup> A political party orientation in Hungarian media institutions also existed previously; the socialist-liberal governments, however, created a better facade of civil control in the Media Council. Despite this inequality, there has yet to be any known systematic micromanagement of oppositional media on the part of the Media Council. Punishment has been doled out instead to media outlets close to the government (the right-wing journalist and Fidesz cofounder Zsolt Bayer was fined). Fines were also levied against Jobbik media outlets for racist statements. Criticism was justified when the oppositional radio station Klubrádió was denied a license extension on the grounds of a (purely formal) error on its license application. Klubrádió ultimately won its subsequent lawsuit.



## Centralization of news production via MTI

The new national media and communications agency is often accused of centralizing news production, because the Hungarian news agency (MTI) offers its services to editorial staffs free of charge. This opportunity, intended as a means of providing financial support to all forms of media, has led most editorial staffs – especially local newspapers in rural areas – to print almost exclusively MTI news reports. The homogeneity of news this system creates throughout the entire media landscape could indeed threaten the balance of news reporting; while all editorial staffs have the right to choose whichever sources or news agencies they prefer, often cost alone is a decisive factor in tipping the scales toward MTI.

There are two known cases of MTI failing to report on events that reflected negatively on the government. The first instance was a reading by former President László Sólyom from his book criticizing the current government. The second was a press conference from Fidesz's parliamentary majority leader Antal Rogán in which he was forced to answer pointed questions about his income tax statements. One further case is known in which a television editor manipulated footage of an antigovernment protest; the editor was fired after the manipulation was revealed.

There are at the same time many examples in the Hungarian media landscape today of engaged journalists who are critical of the government, especially on various independent Internet outlets.

The most recent example comes from the website *Origo*, one of the largest Hungarian news sources. One journalist reported on the exorbitantly high hotel costs of János Lázár, head of the prime minister's office. Was the subsequent dismissal of *Origo*'s editor-in-chief a direct result of this story? A large number of the outlet's political editorial staff quit in response to the firing, and Lázár was accused of applying political pressure in the case. However, both *Origo* and its owner, Magyar Telekom (a subsidiary of Germany's Deutsche Telekom), explained that restructuring plans and not political pressure were the reason for the editor's removal. The reorientation of the website seems to support this statement; *Origo* has had four editors-in-chief in the past three years. Further, there are known plans to sell the site to another media company, Sanoma.

The Lázár case is not entirely clear; it is, however, striking that complaints of threats to the freedom of the press in the domestic and international press were raised before clarity in the matter had been achieved. It is

perhaps better to continue to seek the answer and wait for that result before preemptively deciding that *Origo*'s owners' motivations were influenced by the administration.

## Development of a conservative media empire

The last ten years have seen consistent growth in conservative media outlets. One reason for this is most certainly a result of Fidesz's experience prior to and while governing from 1998–2002. In comparison with the left-liberal coalition, which had inherited and maintained a strong media position from the socialist period, the conservative side at that time had an objective need to catch up. Fidesz spent the last decade – longer, that is, than the period of Orbán's leadership – forging close bonds with private media partners. In addition, the party made an effort after 2010 to effect more government-friendly positions in public media through changes in personnel policy. (This was in large part in response to the similar practice of earlier leftist governments.) This was made possible by not only by staff cutbacks – changes that were, according to our experts, absolutely necessary – but also by concrete personnel changes exclusively to Fidesz's benefit, which must be viewed critically.

In summary, there is no proof in Hungary either of direct censorship or of a direct governmental influence on the content of media coverage. Even the new media law kept the structures of the 1995 media law largely intact. As in many other countries today, the most significant media problems are tied to more complex ownership structures and precarious employment policies, characterized by financial shortfalls and occasional lapses in professionalism. In this way, Hungary also suffers from an unconscious conformity in reporting, with journalists attempting to fit their stories to their employer's expectations. These tendencies are naturally advantageous to a government as strong as Orbán's.

At the same time, the administration is trying to make both public media outlets and the media regulatory and control agencies more government-friendly, largely through changes in personnel policy. These attempts – while they are technically legal both in their reach and given Fidesz's two-thirds parliamentary majority – should nevertheless be viewed with concern, especially from the personnel angle, and this despite the existing and continued variety as well as volume of oppositional media outlets. It would be better if party and government attempts to influence personnel policy were far more transparent as well as more clearly directed at achieving institutional balance. In this regard there is no shortage of adequate European role models.

## Social Justice and Corruption

An example from media coverage:

*Hungarian Prime Minister Orbán is presenting himself as a lawyer to the poor in the run-up to the parliamentary elections in April [2014]. Yet his politics are instead profitable to Hungary's rich and to Orbán's closest friends....*

*As thousands cheer, Orbán descends the stairs of the National Museum toward his podium. He will not permit the population to be "permanently excluded," Orbán thunders. His government protects families from "profiteers, monopolies, cartels, and imperial bureaucrats."...*

*At the same time, social divisions in the country run deeper than they have since the end of the communist dictatorship in 1989–90. Since last year, the governing majority has repeatedly decreased utility costs such as electricity, gas, and water – an election-year gift, sold under the slogan, "Fighting foreign companies." Nevertheless, around three million people – nearly one-third of the population – are poor and living in precarious circumstances.*

*It is the upper 10 percent who profit from Orbán's economic and social policies. This is the core of Fidesz's clientele. Further, Orbán himself and a few dozen of his nearest and dearest have managed to reach high levels of wealth surprisingly quickly – often under questionable circumstances....*

*A handful of extraordinarily wealthy businesspeople control a large percentage of the Hungarian economy through their corporate empires; they are handed the bulk of state contracts and projects and collect a large portion of Hungary's EU development funds....*

*Journalists from atlatszo.hu, a website founded in 2011, have meticulously researched the transactions of these and other oligarchs, as well as their interdependencies with Fidesz. "Corruption and crooked dealings by oligarchs were also an issue under the earlier socialist-liberal coalition," said investigative journalist Attila Mong, "but under Orbán, the state has become hostage to private and party interests."<sup>25</sup>*

## Critical reflection

The accusation of social inequality does not stand up to scrutiny, if inequality is measured using Gini coefficients in a comparison of data from 1992 (with a Gini coefficient of 27.9) through 2013 (28.0).<sup>26</sup> At first glance, the article cited could be correct if one considers that the values from 1992 and 2013 are nearly identical. An examination of the entire transformation period, however, contradicts the report's interpretation. It is not true that "social divisions in the country run deeper than they have since the end of the communist dictatorship in 1989–90." The development of the Gini coefficients shows that social

inequality in Hungary was at its worst in 2006 (33.3) and then improved through 2010 (24.1), before beginning to worsen again during the international financial crisis. The final Hungarian value – 26.9 in 2012 – is comparable to the rest of Europe and actually much better than the European average of 30.6, though in 2013 it climbed again (to 28.0).<sup>27</sup> Across Europe, the years 2010–13 were marked by the greatest social inequality, in Latvia (35.7) among other countries such as Spain, Portugal, and the UK (all between 32 and 35 points); in comparison, Norway had the least social inequality (22.6). While it is true that social inequality has been growing in Hungary since 2010, it is not doing so at a more dramatic rate than the European average. This is rather part of a worldwide trend.

The newspaper article's second accusation – that "it is the upper ten percent, however, who profit from Orbán's economic and social policies" – is seen by critics as a consequence of the government's new, flat, 16-percent tax rate. Administration representatives, however, stress that this tax rate has above all decreased the level of tax evasion, created more new and legal jobs, in addition to raising the level of both private consumption and corporate investment.

Even if these claims are contestable, the employment rate (according to Eurostat) since the introduction of the flat tax has risen from 55.4 percent (2010)<sup>28</sup> to 61.8 percent (August 2014). Unemployment, which had fluctuated between 10 and 12 percent from 2010 and 2013, fell to 7.9 percent (August 2014)<sup>29</sup> – a low that had not been reached in the past six years.<sup>30</sup> Critics argue that these numbers are due in large part to the controversial public works programs, but Eurostat statistics show that the number of private employees also rose slightly in 2014.

It is true that the flat tax rate benefits the top 20 percent of the population. In order to partially balance out these disadvantages, the parliament enacted job protection measures and means of compensation. The net share of tax payments nevertheless remained the same as in most democracies: the top 20 percent pay around 60 percent of the total income tax.

For the most part, such tax policy is widely used across numerous countries in Central and Eastern Europe, in response to a society that during its transformation process was characterized both by relatively low employment and, simultaneously, by massive tax evasion. Hungary oriented itself toward a Slovakian model, where a flat tax rate was introduced in 2004 (before being differentiated in 2013); this flat tax rate could also be seen as a temporary measure in Hungary. In Europe, the following countries also have flat tax rates: Bulgaria (10 percent); the Czech

Republic (15 percent); Estonia (21 percent); Latvia (23 percent); Lithuania (15 percent); and Romania (16 percent).

The article names cronyism as a further reason for social inequality: “A handful of extraordinarily wealthy businesspeople control a large percentage of the Hungarian economy through their corporate empires; they are handed the bulk of state contracts and projects and collect a large portion of Hungary’s EU development funds.” According to Transparency International, Hungary is 47th on the list of corrupt countries, behind Poland (in 38th place) but ahead of the Czech Republic (place 57) and Slovakia (place 61).<sup>31</sup> The new constitution even includes transparency rules for public spending were even included, and as a result, the EU’s anticorruption report praised the administration’s anticorruption measures while complaining about their application in practice. Others, however, expressed their concerns about corruption in sharper terms. The October 2014 case of US travel restrictions imposed on high-level Hungarian civil servants on accusations of corruption requires further investigation.<sup>32</sup> This is complicated by the fact that the US will reveal neither the names of the individuals in question nor any known evidence. The US carries primary responsibility for this charge.

To sum up, we have shown here that social inequality in Hungary is at the level of the European average, neither rising to nor surpassing the levels reached in the immediate post-communist era. It is correct to say that the government’s economic policies do benefit the top ten percent of the population – but this development and criticism are not limited to Hungary. At the same time, the country has also benefited, as the recent employment numbers have shown. This trend is further strengthened by GDP growth of 3.4 percent in the fourth quarter of 2014, a rise far greater than analysts had predicted. Even if this trend is not yet entirely reliable, one can nevertheless recognize its positive development.

## Anti-Semitism

An example from media coverage:

*Since rightist-conservative Prime Minister Viktor Orbán took office in 2010, the climate for minorities has become worse, according to observers....*<sup>33</sup>

*Orbán did not scrimp on denunciations of anti-Semitism [at the World Jewish Congress in 2013] per se – but his answer to [Ronald] Lauder was not very concrete either. It was far more his attempt to downplay the extent of the problem in Hungary by pointing instead to the rest of Europe. Must not all of Europe ask itself, he asked the group, how it could come to such an economic crisis, sowing seeds of frustration, anger, and hate now blooming in certain areas? Further,*

*according to Orbán, “The new constitution we wrote two years ago grants all Jews and other minorities living among us true protection, security, human and collective dignity.” The new Hungarian constitution is, however, contentious. Orbán passed it with his party Fidesz’s two-thirds parliamentary majority. It was incapable of preventing the increase in anti-Semitic incidents in Hungary....*

*The Hungarian government is on a dangerous course. It is allowing racist and neo-Nazi escapades. Viktor Orbán should have addressed this more seriously in his speech before the World Jewish Congress. The prime minister, however, failed in this assignment.... Orbán needs to take a stand. But he refuses to do so.*<sup>34</sup>

## Critical reflection

It must be acknowledged that Hungary does have a traditionally strong anti-Semitic movement. It is statistically about as strong as in France.<sup>35</sup> Two recent investigations into Hungarian anti-Semitism found that anti-Semitism was at its highest between 2006 and 2010 (that is, before the Orbán government) and has declined somewhat since 2010.<sup>36</sup> The fact that perceptions do not reflect this decline relates to the entry of the far-right Jobbik party into parliamentary politics. Despite the fact that anti-Semitism has experienced a mild decline in the country, Jobbik’s very visible presence in the Hungarian parliament means that it is more palpable today than in the past. This results in a significantly higher perception of anti-Semitism among the general public.

In this sense, one may agree with the article’s statement that “since rightist-conservative Prime Minister Viktor Orbán took office in 2010, the climate for minorities has become worse,” despite the fact that anti-Semitism has not risen statistically in this time period or that investigations uncovered no “increase in anti-Semitic incidents in Hungary” since 2010.

Open anti-Semitic polemics would have been unimaginable in Hungary even a few years ago. With the Jobbik party’s arrival in parliament, however, Jobbik now articulates its hatred there and in other areas as well. The public, political presence of anti-Semitism has indeed come about during the period since Orbán assumed office, but is not a result of the Fidesz government. The fact that Jobbik was the third-strongest party in the 2010 elections was more plausibly the result of the collapse of the socialist-liberal Gyurcsány administration.

Unlike in most Western European countries, anti-Semitic leanings in Hungary do not for the most part correlate with political party preferences of the voters themselves; the percentage of voters with anti-Semitic

prejudices in most parties – with the exceptions of Jobbik at 49 percent and the LMP at 12 percent – simply reflects the Hungarian average of 33 percent: anti-Semitism among conservative Fidesz voters is at 39 percent; within the socialist opposition MSZP, it is 38 percent; within Együtt, a party of social democrats, it is 30 percent; while in the DK (the Democratic Coalition) it is 30 percent.<sup>37</sup>

Examining the charge that the new constitution “was incapable of preventing the increase in anti-Semitic incidents in Hungary,” the experts we consulted noted the difficulty in prosecuting hate speech against groups over the past twenty years, which has been a matter of individual case law. A legal ban on hate speech existed but was impossible to enforce. For one thing, this was due to the earlier Constitutional Court’s extremely liberal interpretation of freedom of opinion (following an American interpretation of freedom of opinion); for another, no single person was directly affected by the hate speech, which according to the laws at the time, was a requirement for prosecution.

In 2011, the Orbán administration added verbatim the EU directive 2008/913/IB on incitement against collective groups to the Hungarian civil code and underpinned it with the following amendment to the constitution (Article 9, Paragraphs 4 and 5):

*(4) The right to freedom of speech may not be exercised with the aim of violating the human dignity of others.*

*(5) The right to freedom of speech may not be exercised with the aim of violating the dignity of the Hungarian nation or of any national, ethnic, racial, or religious community. Persons belonging to such communities shall be entitled to enforce their claims in court against the expression of an opinion which violates the community, invoking the violation of their human dignity, as provided for by an Act.*

This constitutional amendment was greeted as an “historical step,” especially by the country’s Jewish communities and was concretely applied in a case for the first time shortly following ratification.<sup>38</sup>

At the same time, it seems dangerous that the freedom of expression of opinion could be limited by “violation of the dignity of the Hungarian nation.” This addition to the constitution offers a potential legal basis for grave restrictions on the freedom of opinion, as “the dignity of the Hungarian nation” could be interpreted in widely differing ways, despite the fact that “protection of the dignity of the nation” has been noted by and defined in the Hungarian criminal law code since 1993, where it has been applied solely to national symbols such as the flag, the national anthem, and the Hungarian coat of arms.

The cited article claims further that the government is “on a dangerous course, [because] it is allowing racist and neo-Nazi escapades.” It concludes that “Orbán needs to take a stand. But he refuses to do so.” Fidesz, they claim, regularly uses double entendres and nationalistic rhetoric in order to win over Jobbik voters. Without a distinguishing itself clearly from Jobbik, the party does not take a clear stance against anti-Semitism. These accusations against the government are ill-founded, however; in fact, numerous measures and official statements by administration representatives contradict them. These measures have repeatedly explained the party’s zero-tolerance for anti-Semitic statements.<sup>39</sup> Our experts unanimously agreed that no previous government had done so much to counter anti-Semitism and to recognize Hungarian responsibility for the events of the Holocaust as the first Fidesz administration (1998–2002) and the current one. Both administrations introduced legislation, including the intensification of parliamentary rules of procedure against hate speech and specified monitoring of anti-Semitic incidents to be performed on a monthly basis by the Brussels Institute of the Action and Protection Foundation according to OSCE methodology.<sup>40</sup>

On both moral and symbolic levels, the Orbán administration has “taken a stand,” precisely as the above-quoted article demands. It was the first administration since 1945 to ask for forgiveness for Hungary’s role in the Holocaust.<sup>41</sup> Further, the government has undertaken important initiatives across the cultural memorial landscape. The first Orbán administration built the first Holocaust memorial center in Central Europe and created an annual Hungarian Holocaust Remembrance Day tied to an educational program for schoolchildren. The government named 2014 Holocaust Memorial Year, and numerous synagogues were renovated and Jewish cultural life received additional support under its framework. The prime minister repeatedly and unmistakably distanced himself from Jobbik, both in his election campaign as well as in an interview with Israeli newspaper Yedioth Ahronoth after the Budapest World Jewish Congress.<sup>42</sup>

New controversies, however, continue to throw a wrench into the government’s policies: the discussion over the memorial to the occupation; the inclusion of racist authors in school curricula; state awards to right-radical journalists and artists. While the latter controversy appears to have been due to inadvertent ignorance, it is evidence of a continued lack of sensitivity on the topic of anti-Semitism and has thus raised doubts about the believability of the other measures listed.



Even the administration's behavior regarding the memorial to the Nazi occupation – known as the Occupation Memorial – could be seen as a step backward insofar as the model of the memorial opens the possibility of interpreting Hungary as only partially responsible for its role in the Holocaust. The administration stresses that this memorial is in no part a reference to the Holocaust, but rather a memorial to the victims of German occupation.<sup>43</sup> This sparked criticism worldwide, showing that the government had failed to present its policy in a clear and sensitive manner. Even across Hungary and among representatives of the Jewish community, the memorial met with criticism. The Jewish umbrella organization Mazsihisz recused itself from all official events within the framework of the 2014 Holocaust Remembrance Year, partly in protest over the Occupation Memorial.

The anti-Semitism debate about and within Hungary has a clearly dangerous party dimension. In our Working Group's consultations with experts, the view was expressed from the Jewish community that accusations of anti-Semitism between parties were themselves part of the problem.

Such insults are often all too easily cast for political reasons, for example to discredit the Fidesz administration internationally. In this respect, and most unfortunately, a gravely important theme – anti-Semitism – has been instrumentalized for political purposes. For exactly this reason the debate surrounding the Occupation Memorial in early 2014 became one of the opposition's election-year talking points.

The media occasionally accuses Fidesz of latent cooperation with Jobbik and even intending to form a future coalition with that party. Reporting on the new media tax, a German daily newspaper wrote that Fidesz, "together with the oppositional, right extremist party Jobbik," agreed on this tax.<sup>44</sup> Yet Fidesz had a large enough majority to pass the law on its own without needing to make a deal with Jobbik. (There is no way to prevent another party from also voting for one's legislation in parliament.) The administration has always been very critical of Jobbik, and Fidesz is the only party that can keep Jobbik politically in check – as evidenced by the 2014 EU election results. In introducing legislation and in investigatory and parliamentary committees, even the socialist MSZP practiced a so-called "technical" cooperation with Jobbik, despite that party's public avowal of a strict delineation.

Hungary finds itself at a key juncture in its historical process of political and economic transformation. Many of the experts we consulted considered the current reporting on the situation of Hungarian Jews, especially

within the German-language press, to be one-sided and rather counterproductive. It unnecessarily supports the expression of "freedom trauma" of many Hungarians against imagined "international interference" and in this way mobilizes even extreme groups for whom such reporting is in fact most opportune.

Moderate political forces in the administration and the opposition are not helped by one-sided reporting – especially on the topic of anti-Semitism – underlining their existing differences by exacerbating them. In the end, the Jewish community also suffers from this, as their representatives reported, because they feel they are being instrumentalized in cross-party conflicts.

Experts also noted the renaissance in Jewish life that has been underway in Hungary for years, especially among young people. The country is experiencing active exchange with Israel, as a kind of "homeland tourism" takes place between the two countries.<sup>45</sup> In connection to this, the former chair of the Hungarian Jewish Community organization, Péter Feldmájer, stated that "95 percent of the time, one can lead a normal and happy, good Jewish life in Hungary.... There are 40 synagogues; there are Jewish schools, clinics, social welfare organizations, and youth clubs.' This is important to him [Feldmájer], because journalists usually only ask about the remaining 'five percent [of the time],' which is indeed 'highly problematic.'"<sup>46</sup>

## Homelessness

An example from media coverage:

*On Monday [September 30, 2013], the Hungarian parliament passed a controversial law forbidding the homeless from sleeping on public streets or squares. Homeless people found in noncompliance may even be punished with imprisonment....*

*Soon the homeless will no longer be welcomed at any of Hungary's [UNESCO] World Heritage sites. Beyond this, local governments are allowed to create homeless-free zones at their own discretion. Violations can be punished with community service or monetary fines. "Repeat offenders" may face prison time.*

*The socialist opposition party MSZP laments that, as a result of this "inhumane" law, the homeless could be "hunted" by the authorities without having committed any crime. The new law, they say, has only been created to prevent the presence of these people from blemishing the administration's "success propaganda." Hundreds of Hungarians protested the law in front of parliament.<sup>47</sup>*

## Critical reflection

The starting point for this law was pressure from many mayors – even those from the opposition party MSZP – to deal with the increasingly difficult situation of homelessness in public areas, as the number of homeless people has grown dramatically in the past five to six years, largely for economic reasons.

Between 2006 and 2010 – before the Orbán government – 131 homeless men and women froze to death in Budapest. In many parts of town there were homeless camps, creating unsustainable circumstances for both the homeless and residents nearby. Because the Constitutional Court struck down the first attempt – a 2011 law – as unconstitutional, in 2013 the administration introduced a measure into the constitution in order to establish a common, nationwide legal basis for this local responsibility. The Constitution's new Article 22, Paragraph 3 applies only in cases where residence in public space becomes permanent. That means that only “habitual dwelling” is forbidden in World Heritage sites and other public areas designated as such by local authorities. The regulation is intended “to protect public order, public security, public health, and cultural values.” Violations are administrative offenses. Three repeat offenses can result in a fine, community service, or even incarceration.

Thus far, only a few cases of fines are known, and incarceration has yet to occur. Those affected and their social workers verify that the police have behaved in a rather reserved way since the law's passage. Beyond World Heritage sites incorporating large sections of central Budapest along the Danube, Budapest's no-go zones include its metro stations, areas surrounding playgrounds, cemeteries, and schools, as well as bridges and underpasses. In that the misdemeanor in question applies only to habitation, the law is similar to Vienna's recent “camping ban.”

Parallel to this law, local governments were required to guarantee the provision of shelters for the homeless. Orbán's administration started a program in 2012 to expand housing and guarantee free medical care as well as hospital visits for the homeless, granting it €30 million. The number of homeless people in Hungary cannot be exactly measured, but is presently estimated at 30,000–50,000. That said, there are nearly two decades' worth of survey data on homeless people who have used social services and shelters during this period. The number of spaces in homeless shelters rose from 8,200 to 11,000 between 2011 and 2013. According to one study, the capacity of most shelters reaches only 80–90 percent, even in

winter months.<sup>48</sup> One administration statement clarified that one of the goals of the new regulation was to encourage the homeless to take advantage of available amenities and services. Given the high number of homeless people, many experts agree that further expansion of facilities will be necessary.

The criticism that the Hungarian administration intends to “hunt” or criminalize the homeless is not adequately grounded. It is not forbidden for homeless people to be in certain areas. Rather, the law was intended to address specific areas that had become camps for a large number of individuals, leading to extremely unhygienic conditions.

The regulation was intended to secure public order and hygiene and to encourage the homeless to take advantage of the housing and services available to them. International criticism assumed the mantle of the (politically motivated) Hungarian opposition, while there was inadequate reporting on conditions that had previously prevailed and little coverage of government measures to support the homeless.

## State of the Roma Minority

An example from media coverage:

*Critics have long claimed that right-nationalist Fidesz encourages the country's rampant anti-Roma racism....*

*The verdict following the series of murders of Hungarian Roma illustrates that the justice system is cracking down on racially motivated crimes. Nevertheless, a dangerous mood of rightist extremism and xenophobia is growing. Its most important protagonist is the chair of the Jobbik party, Gábor Vona. But even Prime Minister Viktor Orbán is part of its rise....*

*Even the constitutional changes that Orbán and his coalition pushed through parliament allow recognition of a creeping nationalization and power concentration in Hungary. Discrimination against minorities is most obvious in the areas of culture and education.<sup>49</sup>*

## Critical reflection

This remark represents a style of criticism that overlooks the fact that Fidesz was the first and only party in all of Europe with a Roma representative in the European Parliament (immediately following Hungary's EU accession in 2004). Its charges are contradicted by the fact that one of Hungary's most significant projects during its 2011 Council of the EU presidency was the EU-wide implementation of a comprehensive European Roma strategy. This

strategy drew Europe's attention to the situation affecting 10–12 million European Roma and formulated four goals:

*First, improvement to school access was stressed as a necessity for entrance into the labor market; second, access to the labor market itself should be eased, as the percentage of unemployed among the Roma is alarmingly high (in Hungary, estimated at 65–75 percent). The third goal is access to medical care. Even in Hungary, the Roma have a lower life expectancy than the rest of the population, and certain illnesses affect them more often due to their inferior living conditions. The fourth goal is intended to improve their access to housing and social services. Near the end of the Hungarian Council presidency, an EU Roma strategy until 2020 was passed which will complement Europe 2020 goals in this field.*<sup>50</sup>

The Hungarian government has made solid efforts toward improving the situation of the Roma population. Why does such a large discrepancy between this reality and public perception still exist? Perhaps it is because the results of many of these changes will not be visible for decades. The number of Roma completing school continues to grow. In Hungary, as in Romania, there has been a strong upswing in Roma elites, and the development of Roma intellectuals has been a high priority for Minister Zoltán Balog, who feels they will best represent the interests of this group independently. Aspiring Roma elites in Hungary have come to realize that Roma must be more aware of their rights. They are far more conscious of this today and have become much more vocal with regards to general human rights, women's rights, and the right to social and economic development.

## Conclusions

In numerous meetings with both Hungarian and German external experts, the Working Group conducted intense discussions on the developments in Hungary and their coverage in German-language and international media. This process brought to light differing opinions and assessments.

On the basis of our interviews with experts, the Working Group is nevertheless of the overall opinion that Hungary today is a free and democratic state that respects the rule of law, where the press is not subject to censorship, and where the current administration does not support anti-Semitism; in fact, the state has taken significant steps to fight anti-Semitism. Judicial independence exists in the country as well.

That said, Orbán's strongly party-influenced position has led to party-influenced personnel decisions that are

neither good for the individual institutions nor ultimately beneficial as a whole, in that it could restrict the diversity that ever democracy needs.

The Working Group's numerous discussions clearly showed that, while some of the points made in the media today against Orbán's administration are accurate, many accusations are greatly exaggerated or even factually incorrect.

No country and no government is perfect. Nevertheless, no dialogue involving the peoples of Europe can be fruitful if it is based on prejudice and bias. Criticism is necessary, but it must be grounded in cogent argument and backed by evidence. This is equally applicable to all EU states. Criticism should not be made as a condemnation but should rather be used constructively to make a step forward in the developmental process of European democracy.

## Recommendations

In both our examination of media reporting as well as in our discussions with German and Hungarian experts, it became clear that the reporting of numerous media sources is simply incomplete and one-sided, and at its worst deeply flawed. Such reporting leads readers to draw skewed conclusions about the situation in Hungary. Unfortunately, this negatively influences how the country is seen across the spectrum of German politics. Due to a combination of misunderstandings, mistakes, omissions, and political prejudice in reporting, it is no longer possible to judge to what degree the developments in Hungary in fact contradict European democratic values on the one hand, or on the other hand are at all different from what occurs in Germany, for example – but nevertheless are neither antidemocratic nor anti-European and therefore should be accepted, if only on the grounds of national sovereignty.

The quality of reporting could be improved if:

- the information reported were closely checked and critically examined through conversations with either politically independent experts or experts with differing political views;
- research consultation expanded beyond the small circle of famous German-speaking Hungarians or Hungarian exiles in Germany to include other recognized scholars and experts;
- specific events or developments were reported in context, with ample background explanation, and only on the basis of verifiable information.



While traditionally positive, German-Hungarian relations have suffered greatly in recent years and desperately require new and inspiring catalysts. To this end, both sides will have to leave behind their at times politically-based thought patterns and approach one another without prejudice – without ungrounded accusations, but also without exaggerated sensitivity on the Hungarian side.

Orbán's administration clearly ascribes great importance to both stability in the democratic political system as well as efficiency of governmental action. In this sense, Orbán views his parliamentary majority as a democratic authorization to make sweeping reforms. His Băile Tuşnad speech unleashed heavy international criticism, despite the fact that its subjects – upon more careful study – offered little opportunity for such; Orbán here sought a path to guide his country from today's ruthless economic liberalism to a stronger state following ideals beyond profit maximization, all within the framework of liberal democracy and respect for human rights. On this path, he envisions greater protections for the socially disadvantaged and for Hungary's national interests – and in this way hopes to ensure from his perspective that Hungary will stay competitive.

Orbán's remarks, however, could have met with less rejection had he chosen his concepts more carefully. For his remarks indeed posed many questions worthy of discussion. Perhaps he intended to be provocative; yet his use of the phrase "illiberal state" is easily and quite understandably misinterpreted and rejected across Europe,

even if he only intended to apply it, as it appears from his remarks, to the "illiberal" economic order. Orbán thereby complicated objective discussion from the outset, if he did not discredit his concerns completely. Whoever seeks to be heard in the European discourse must be careful to choose language that will not be easily falsely interpreted.

Orbán's tense relationship with the European Commission should not be the basis for mutual accusations. Rather, it rather should be used to start a well-grounded debate on the future of the EU's democratic system in the world today. Germany and Hungary could bring all of Europe closer together with a productive dialogue on questions of stable democratic structures in the global context.

Based on the Working Group's experiences and results, the DGAP would like to create a space for a dialogue between Germany and Hungary on the future of Europe. It has therefore formed a standing German-Hungarian Discussion Circle, which held its first meeting on January 28, 2015 to address the topic of Hungary's energy foreign policy; at its second meeting on March 25, the group discussed the Hungarian opposition. These discussions aim to help return German-Hungarian relations to what they were 25 years ago: a motor for European democratic development.

This report does not pretend to be exhaustive. To this end, we are grateful for additions and constructive criticism that would help us round out the picture presented in this report.

## Notes

- 1 “Jewish Migration: Next Year in Berlin,” *The Economist*, October 11, 2014 <<http://www.economist.com/news/middle-east-and-africa/21623796-some-israelis-yearn-new-lives-germany-next-year-berlin>> (accessed May 20, 2015).
- 2 Quoted in “The New York Times Buries Interview with Nobel Laureate Imre Kertész,” *Hungarian Globe Mandiner*, December 17, 2014 <[http://hungarianglobe.mandiner.hu/cikk/20141217\\_no\\_dictatorship\\_no\\_story\\_the\\_new\\_york\\_times\\_buries\\_an\\_interview\\_with\\_nobel\\_laureate\\_imre\\_kertesz](http://hungarianglobe.mandiner.hu/cikk/20141217_no_dictatorship_no_story_the_new_york_times_buries_an_interview_with_nobel_laureate_imre_kertesz)> (accessed May 20, 2015). Kertész described his encounter with the reporter (David Streitfeld) to Thomas Cooper, who published the remarks in *Hungarian Quarterly* 209 (special issue, 2014). It was subsequently published (in Hungarian) in the Jewish political and cultural magazine *Szombat*. See “Dokumentum és Fikció: Kertész Imrével beszélget Thomas Cooper,” *Szombat*, August 11, 2014 <<http://www.szombat.org/kultura-muvesztek/dokumentum-es-fikcio-kertesz-imrevel-beszelget-thomas-cooper>> (accessed May 20, 2015).
- 3 “Protests in Hungary: Opposing Orban,” *The Economist*, November 20, 2015 <<http://www.economist.com/news/europe/21633856-more-anti-government-protests-little-change-prime-minister-opposing-orban>> (accessed May 20, 2015).
- 4 Stephan Löwenstein, “Die Nähe zum russischen Freund,” *Frankfurter Allgemeine Zeitung*, December 6, 2014. (All translations from the German media are our own, unless otherwise noted.)
- 5 Three of the group’s four members are fluent in German and Hungarian and were therefore able to follow media developments in both countries.
- 6 Fidesz is an acronym for Fiatal Demokraták Szövetsége: Magyar Polgári Párt (Federation of Young Democrats: Hungarian Citizens’ Party). It was founded by Viktor Orbán and other young members of the opposition in 1988 and is today Hungary’s right-conservative party. KDNP stands for the 1989 Kereszténydemokrata Néppárt (Christian Democratic People’s Party).
- 7 Maximilian Steinbeis and Christian Boulanger, “Warum wir uns Sorgen machen,” *DIE ZEIT*, April 19, 2011 <<http://www.zeit.de/2011/17/ungarn-verfassung-op-ed/seite-1>> (accessed May 20, 2015).
- 8 “The Fundamental Law of Hungary” (official translation) <<http://www.kormany.hu/en/news/the-new-fundamental-law-of-hungary>> (accessed May 20, 2015).
- 9 For example: “We recognize the role of Christianity in preserving nationhood. We value the various religious traditions of our country.... We proclaim that the nationalities living with us form part of the Hungarian political community and are constituent parts of the State. We commit to promoting and safeguarding our heritage, our unique language, Hungarian culture, the languages and cultures of nationalities living in Hungary, along with all man-made and natural assets of the Carpathian Basin.” Ibid.
- 10 Tibor Navracsics, “Rückgrat der Demokratie: Verfassung und Kardinalsgeetze, ein Essay vom Vizepremier von Ungarn,” *Pester Lloyd*, January 11, 2012 <[http://www.pestierlloyd.net/2012\\_02/02navracsics/02navracsics.html](http://www.pestierlloyd.net/2012_02/02navracsics/02navracsics.html)> (accessed May 20, 2015), with reference to Tibor Navracsics, “Hungary’s Constitution and Cardinal Laws: Completing the Political, Institutional and Intellectual Renewal of Hungary,” *Conservative Home*, January 11, 2012 <<http://www.conservativehome.com/platform/2012/01/tibor-navracsics-hungarys-constitution-and-cardinal-laws-completing-the-political-institutional-and.html>> (accessed May 20, 2015).
- 11 Jobbik is an extreme right-wing party founded in 2003. It won its first parliamentary seats in 2010. The party’s full name, Jobbik Magyarorszáért Mozgalom, is based on a Hungarian play on words, meaning both Movement for a Better/Righter Hungary. Gábor Vona is the party’s leader.
- 12 MSZP is the Hungarian Socialist Party (Magyar Szocialista Párt), successor to the former state communist Hungarian Socialist Workers Party, or MSZMP (Magyar Szocialista Munkáspárt).
- 13 For example, in a document that answers questions about the new constitution from the Hungarian Helsinki Commission (in Hungarian) <[http://helsinki.hu/wp-content/uploads/GOV\\_Kerdeseke\\_feleletek\\_az\\_alkotmanyozasal\\_kapcsolatban\\_HU.pdf](http://helsinki.hu/wp-content/uploads/GOV_Kerdeseke_feleletek_az_alkotmanyozasal_kapcsolatban_HU.pdf)> (accessed May 20, 2015), p. 1.
- 14 Cyril Stieger, “Orbán’s Mission: Verfassungsänderungen in Ungarn,” *Neue Zürcher Zeitung*, March 12, 2013 <<http://www.nzz.ch/aktuell/startseite/orbans-mission-1.18045529>> (accessed May 20, 2015).
- 15 The Venice Commission (European Commission for Democracy Through Law) is a body of the Council of Europe which advises countries on constitutional law. See <[www.venice.coe.int](http://www.venice.coe.int)>.
- 16 Martin Winter, “EU will in Ungarn Grundrechte erzwingen,” *Süddeutsche Zeitung*, January 17, 2012 <<http://www.sueddeutsche.de/politik/verfahren-gegen-die-regierung-orbn-eu-will-in-ungarn-grundrechte-erzwingen-1.1260477>> (accessed May 20, 2015).
- 17 Anna Szabó, “EU misst in Italien und Ungarn mit zweierlei Maß,” *Magyar Nemzet*, June 26, 2014 <<http://www.eurotopics.net/de/home/presseschau/archiv/article/ARTICLE145855-EU-misst-in-Italien-und-Ungarn-mit-zweierlei-Mass>> (accessed May 20, 2014).
- 18 In reunified Germany, former GDR judges who wished to maintain their posts has to submit to both a reapplication and retesting process through the locally authorized judicial selection committee. This committee sought to identify and verify by two-thirds majority that the candidate “exhibits visible and convincing will and ability to perform the duties of an independent judge as proscribed by the constitution, as well as to administer justice under the principles of the rule of law.” Federal Administrative Court ruling from 11.6.1995, Case # 2 C 21/94 <[https://www.jurion.de/Urteile/BVerwG/1995-11-06/2-C-21\\_94](https://www.jurion.de/Urteile/BVerwG/1995-11-06/2-C-21_94)> (accessed May 20, 2015). In Hungary, in contrast, there was no such screening of experienced judges with regard to their legal principles.
- 19 While judges in Budapest had on average 200 open cases to handle, their colleagues in rural areas had only 70–80.
- 20 Meret Baumann, “Orbán’s Wiederwahl steht praktisch fest,” *Neue Zürcher Zeitung*, March 20, 2014 <<http://www.nzz.ch/aktuell/startseite/orbans-wiederwahl-steht-praktisch-fest-1.18267092>> (accessed May 20, 2015).
- 21 Some experts argue that decreasing the size of the parliament is a populist but rather faulty means of lowering costs, especially considering that proportional voting in the Hungarian mixed voting system would no longer be accurately reflected in a smaller parliament, nor could parliamentary committee work be effectively carried out.
- 22 The fund, sponsored in large part by Norway and to a smaller degree by Liechtenstein and Iceland, supports democracy development programs and social projects in countries which joined the EU since 2004; not unlike the Swiss cohesion funds, these payments serve to balance out the economic benefits received by Norway and the other EEC members from their participation in the single market. The Norway Grant funds have been controlled by a consortium of four Hungarian NGOs since 2004. Two of these foundations are Ökotárs and Demnet.
- 23 Peter Frey, “Unser Ernstfall heißt Ungarn,” television commentary on the news program *ZDF heute-journal*, January 3, 2011 <<http://www.youtube.com/watch?v=Tt3nufHMz5I>> (accessed May 20, 2015).
- 24 Further extensive analysis and criticism has come from Germany’s Friedrich Ebert Foundation – Birgit Ladwig-Tils, “Neues Mediengesetz und Verfassungsänderung: Ungarn, wohin steuerst Du?,” (Friedrich Ebert Foundation Online Academy, November 2013) <<http://library.fes.de/pdf-files/akademie/online/08826.pdf>> (accessed May 20, 2015) – and the Hanns Seidel Foundation: Ulrich Kleppmann, “Projektland Ungarn – Das neue ungarische Mediengesetz,” (Institute for International Cooperation, January 17, 2011) <[http://www.hss.de/fileadmin/media/downloads/Berichte/110119\\_SB\\_Ungarn.pdf](http://www.hss.de/fileadmin/media/downloads/Berichte/110119_SB_Ungarn.pdf)> (accessed May 20, 2015). The latter analyzes German-language media reporting about the new Hungarian media laws, which met with heavy criticism even before an English-language translation of the law was available to the public.
- 25 Keno Versek, “Wahlkampf in Ungarn: Orbán’s Clan plündert die Staatskassen,” *Spiegel Online*, February 4, 2014 <<http://www.spiegel.de/politik/ausland/ungarn-ministerpraesident-orban-und-sein-clan-a-959798.html>> (accessed May 20, 2015).
- 26 The Gini coefficient is a statistical measure developed to represent distributional inequalities. In the *CIA World Factbook*, Gini coefficients can have any value between 0 (where the wealth of a country is equally distributed among all of its residents) and 100 (where the entire wealth of a country belongs to one single person). The closer the Gini coefficient is to 100, the greater the degree of inequality.
- 27 Eurostat, “Gini Coefficient of Equalized Disposable Income” <<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&plugin=0&language=en&pcode=tessi190>>; Trading Economics, “Gini index in Hungary” <<http://www.tradingeconomics.com/hungary/gini-index-wb-data.html>> (accessed May 20, 2015).
- 28 Eurostat, “Employment Rate, by Sex” <<http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tsdec420&plugin=1>> (accessed May 20, 2015).
- 29 Eurostat, “Unemployment Rate, by Sex” <<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=tsdec450&plugin=1>> (accessed May 20, 2015).
- 30 Hungarian Central Statistical Office, “More Key Figures” <[http://www.ksh.hu/more\\_key\\_figures](http://www.ksh.hu/more_key_figures)> (accessed May 20, 2015).
- 31 *Corruption Perceptions Index 2013*, Transparency International <<http://www.transparency.org/cpi2013/results>> (accessed May 20, 2015).
- 32 In October 2014, the US placed travel bans on ten high-level Hungarian officials based on suspicion of corruption. Among those affected were Ildiko

- Vida, director of the tax administration, and two of her assistant directors. Following American law, the US does not publish a list of the affected individuals or the reasons for the bans, but rather informs each person individually.
- 33 It is worth noting that the article uses the word “minorities” in connection with Hungarian Jews, although Jews in Hungary are not recognized as a minority but rather as members of a religious community; the discussion is in fact about Jews that have lived in Hungary as Hungarian citizens for centuries.
  - 34 “Wie Orban das Antisemitismus-Problem kleinredet,” *Süddeutsche Zeitung*, May 6, 2013 <<http://www.sueddeutsche.de/politik/ungarns-praesident-vor-juedischem-weltkongress-wie-orbn-das-antisemitismus-problem-kleinredet-1.1666026>> (accessed May 20, 2015).
  - 35 For a comparative discussion of anti-Semitism in the global context, see the Anti Defamation League’s index, *The ADL Global 100: An Index of Anti-Semitism* <<http://global100.adl.org/>> (accessed May 20, 2015).
  - 36 András Kovács, “Anti-Semitic Prejudice and Political Anti-Semitism in Present-Day Hungary,” *Journal for the Study of Anti-Semitism* 2/2012, pp. 443–67 <<http://people.ceu.hu/sites/people.ceu.hu/files/profile/attachment/1584/andras-kovacs-antisemitic-prejudice-and-political-antisemitism-present-day-hungary.pdf>> (accessed May 20, 2015); “Prevalence of Anti-Semitic Prejudice in Contemporary Hungarian Society,” Brussels Institute Research Report, 2013 <[http://tev.hu/wp-content/uploads/2014/04/median\\_report\\_2013\\_eng1.pdf](http://tev.hu/wp-content/uploads/2014/04/median_report_2013_eng1.pdf)> (accessed May 20, 2015).
  - 37 Interview with András Kovács, “A magyar antiszemitizmus nem kirívó, de nincs ok a megnyugvásra,” Szombat, January 21, 2014 <<http://www.szombat.org/politika/a-magyar-antiszemitizmus-nem-kirivo-de-nincs-ok-a-megnyugvasra>> (accessed May 20, 2015).
  - 38 The case in question related to a group of Hungarian motorcyclists who wished to stage a demonstration (using the slogan “Step on it!”) at the same time and place as the “March of the Living,” a Holocaust memorial event. The demonstration was prevented on the grounds of the fourth amendment to the constitution.
  - 39 For a compilation of the most important actions and statements from government politicians, see: “Fact Sheet: The Hungarian Government’s Steps to Combat anti-Semitism” (Hungarian Embassy to the US, April 17, 2013) <<http://washington.kormany.hu/download/d/dc/60000/Fact%20Sheet%20Hungary%27s%20Commitment%20against%20anti-semitism%2017042013.pdf>> (accessed May 20, 2015).
  - 40 The hate speech rules were made in response to a notorious request from Jobbik MP Márton Gyöngyösi in 2012 to create a list of Jewish MPs. Since then, such statements are now punishable by fines, exclusion from parliamentary proceedings, and removal of immunity, depending upon the seriousness of the offense.
  - 41 In October 2013, Tibor Navracsics, Hungary’s minister of justice and deputy prime minister, recognized the Hungarian state’s joint responsibility for the mass killings of Jews; Secretary of State Zsolt Németh did the same, calling Israel “Hungary’s eighth neighbor.” Hungary’s ambassador to the UN, Csaba Körösi, asked for forgiveness in the name of the Hungarian state, adding that the desire for forgiveness must become a solid part of Hungary’s identity. President János Áder made a similar statement. For further statements from governmental officials, see note 39.
  - 42 On May 3, 2013, Orbán told the newspaper that he could envision no situation or constellation in which he would assume the support of the right-radical Jobbik party in order to form his cabinet; nor would he accept the support of a minority government, a situation he refused out of hand.
  - 43 The occupation on March 19, 1944 is also marked every year by the Jewish community. One survey of the interpretation of the Occupation Memorial illustrates just how divided the Hungarian population is along political lines. Half of those surveyed, including those who opposed the memorial regardless of their political preferences, found the active political movement of the Jewish organizations against the memorial rather ineffective, instead viewing it as an unnecessary escalation of the debate. See “The Divisive Memorial” (Action and Protection Foundation) <<http://tev.hu/wp-content/uploads/2014/04/The-Divisive-Memorial.pdf>> (accessed May 20, 2015).
  - 44 “Senderkette RTL wehrt sich gegen ungarische Willkür: Neue Mediensteuer drückt auf den Gewinn,” *Frankfurter Allgemeine Zeitung*, August 22, 2014.
  - 45 “Jewish Migration,” *The Economist*, October 11, 2014 (see note 1).
  - 46 Stephan Löwenstein, “Die fünf problematischen Prozent: Antisemitismus in Ungarn,” *Frankfurter Allgemeine Zeitung*, September 13, 2012 <<http://www.faz.net/aktuell/politik/ausland/antisemitismus-in-ungarn-die-fuenf-problematischen-prozent-11889232.html>> (accessed May 20, 2015). An estimated 80,000–120,000 Jews live in Hungary, 90 percent of them in Budapest.
  - 47 “Ungarn geht hart gegen Obdachlose vor,” *Süddeutsche Zeitung*, October 1, 2013 <<http://www.sueddeutsche.de/politik/umstrittenes-gesetz-ungarn-geht-hart-gegen-obdachlose-vor-1.1784580>> (accessed May 20, 2015).
  - 48 Budapesti Módszertani Szociális Központ és Intézményei <<http://www.bmszki.hu/eves-adatfelvetelelek>> (accessed May 20, 2015). For 2013 data in English, see Peter Gyori et al., “Report on the Third of February Homeless Survey in Hungary: 2013” <<http://www.bmszki.hu/sites/default/files/field/uploads/f-3-2013-english-final.pdf#overlay-context=februar-harmadika-munkacsoport>> (accessed May 20, 2015).
  - 49 “Rechtsnationale drehen Roma das Wasser ab,” *Süddeutsche Zeitung*, August 5, 2013 <<http://www.sueddeutsche.de/politik/ungarn-rechtsnationale-drehen-roma-das-wasser-ab-1.1739087>> (accessed May 20, 2015).
  - 50 Zoltán Kiszelly, “Soziale und politische Lage der Roma in Ungarn,” Konrad Adenauer Foundation <[http://www.kas.de/wf/doc/kas\\_35236-1522-1-30.pdf?130823102602](http://www.kas.de/wf/doc/kas_35236-1522-1-30.pdf?130823102602)> (accessed May 20, 2015). Further measures are outlined in an interview with Zoltán Balog, the minister responsible for Roma integration in Boris Kálnoky, “Ein Skandal, ausgetragen auf dem Rücken der Kinder: Ungarns Integrationsminister Zoltán Balog über Kindergartenpflicht für Roma und Segregation,” *Die Welt*, January 6, 2014 <[http://www.welt.de/print/die\\_welt/politik/article123564194/Ein-Skandal-ausgetragen-auf-dem-Ruecken-der-Kinder.html](http://www.welt.de/print/die_welt/politik/article123564194/Ein-Skandal-ausgetragen-auf-dem-Ruecken-der-Kinder.html)> (accessed May 20, 2015).



**Publisher**

Prof. Dr. Eberhard Sandschneider, *Otto Wolff*  
*Director of the Research Institute, DGAP e.V.*

ISSN 1866-9182

**Translation** Hilary Bown

**Layout** Andreas Alvarez

**Design Concept** Carolyn Steinbeck

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